

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

In Re:	)	Case No. 24-30289
	)	
DISTRICT 9 BREWING COMPANY,	)	Chapter 11
	)	Subchapter V
<u>Debtor.</u>	)	

**OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 11 PLAN OF  
REORGANIZATION AND NOTICE OF HEARING**

THE UNITED STATES OF AMERICA, on behalf of the Internal Revenue Service ("IRS"), through Dena J. King, United States Attorney for the Western District of North Carolina, and the undersigned counsel, objects to Debtor's Amended Chapter 11 Plan of Reorganization (Doc. 101) for the following reasons:

1. Debtor filed this Chapter 11 subchapter V bankruptcy petition on March 29, 2024. (Doc. 1.) The Service filed a tax claim on May 7, 2024, reflecting an unsecured priority claim for \$52,769.86. (Claim No. 8-1.)

2. The Plan is not feasible. The IRS's priority claim in the amount of \$52,769.86 is not included in the Plan and no amended plan has been filed that accounts for the claim.

3. Moreover, Debtor is delinquent in filing tax returns and has not filed the requisite Form 941s for each quarter of 2023 and the first quarter of 2024, and Form 940 for the fourth quarter of 2023.<sup>1</sup> The Plan therefore cannot be confirmed. 11 U.S.C. § 1106(a)(6) ("A trustee

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<sup>1</sup> It appears Community Brewing Ventures LLC (Andrew Durstewitz as Sole Member), 1138 Treynorth Dr. Ste. C, Cornelius, NC 28031-8186 assumed the role of paying Debtor's employment taxes beginning in the first quarter of 2023 and is current through the first quarter of 2024. However, the IRS has been unable to verify this due to the delinquent return of requested information. The Service's estimates on Debtor's tax liability will remain until the missing returns are fully processed or Debtor proves that Community Brewing Ventures LLC assumed paying such employment taxes in 2023. Debtor may do so by (i) providing an affidavit to that effect which specifies that Debtor had the filing requirements closed for District 9 Brewing Ventures, LLC for Forms 940 and 941 (specifying the date of closure), and (ii) that the three companies implicated and/or otherwise tangentially involved in the instant bankruptcy (d/b/a Bevana Partners, d/b/a Community Brewing Ventures, LLC, d/b/a D9 Brewing Company) be consolidated with Debtor District 9 Brewing Company.

shall . . . for any year for which the debtor has not filed a tax return required by law, furnish, without personal liability, such information as may be required by the governmental unit with which such tax return was to be filed[.]”); *id.* § 1107(a) (“[A] debtor in possession . . . shall perform all the functions and duties . . . of a trustee serving in a case under this chapter”); *id.* § 1129(a)(2) (chapter 11 plan cannot be confirmed unless “[t]he proponent complies with the applicable provisions of this title”); *cf. In re Action Video, Inc.*, No. 02-52402, 2003 WL 21350081, at \*2 (Bankr. M.D.N.C. June 9, 2003) (stating that, under section 1107, “a debtor-in-possession shall perform all the functions and duties of a trustee serving in a case under Chapter 11 of the Bankruptcy Code. Section 1106 sets forth the duties of the trustee, including the duty to file income tax returns and pay taxes on the income attributable to the debtor”); *In re Brennan*, 187 B.R. 135, 147 (Bankr. D.N.J. 1995), *rev’d on other grounds, In re First Jersey Sec., Inc.*, 180 F.3d 504 (3d Cir. 1999) (stating that Bankruptcy Code sections 1106(a)(6) and 1107(a) impose a duty on debtors in possession to file required tax returns); 11 U.S.C. § 1112(b)(4)(I) (case subject to conversion/dismissal for failure to pay postpetition taxes).

4. A hearing has been proposed for August 6, 2024, at 9:30 a.m., or as soon thereafter as may be heard, in the United States Bankruptcy Court for the Western District of North Carolina, Charlotte Division, 401 West Trade Street, Charlotte, North Carolina, 28202.

WHEREFORE, the United States requests that the Court deny confirmation of the Plan or provide such other relief as the Court deems appropriate.

This the 16th day of July, 2024.

Respectfully submitted,

DENA J. KING  
UNITED STATES ATTORNEY

**s/Jonathan M. Warren**  
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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

In Re:	)	Case No. 24-30289
	)	
DISTRICT 9 BREWING COMPANY,	)	Chapter 11
	)	Subchapter V
<u>Debtor.</u>	)	

**NOTICE OF HEARING ON UNITED STATES OF AMERICA'S OBJECTION  
TO CONFIRMATION OF DEBTOR'S PLAN OF REORGANIZATION**

TO: Debtor, Attorney for Debtor, Trustee, and other parties in interest.

NOTICE is given that the United States has filed the following:

**OBJECTION TO CONFIRMATION OF DEBTOR'S  
CHAPTER 11 PLAN OF REORGANIZATION**

TAKE FURTHER NOTICE that the United States requests that a hearing be set on the NOTICE OF HEARING ON UNITED STATES OF AMERICA'S OBJECTION TO CONFIRMATION OF DEBTOR'S PLAN OF REORGANIZATION for August 6, 2024, at 9:30 a.m., or as soon thereafter as may be heard, in the United States Bankruptcy Court for the Western District of North Carolina, Charlotte Division, 401 West Trade Street, Charlotte, North Carolina, 28202.

Respectfully submitted, this the 16th day of July, 2024.

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UNITED STATES ATTORNEY

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Label Matrix for local noticing  
0419-3  
Case 24-30289  
Western District of North Carolina  
Charlotte  
Mon Jul 15 09:38:23 EDT 2024

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Charlotte, NC 28202-1633

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NewCo Capital Group VI LLC  
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Sherrills Ford, NC 28673-0492

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(p)UNIFI EQUIPMENT FINANCE INC  
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The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
 by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

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 227 West Trade Street Suite 1650  
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UniFi Equipment Finance Inc.  
 3893 Research Park Dr.  
 Ann Arbor, MI 48108

Webstaurant Store  
 2205 Old  
 Philadelphia Pike  
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The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Bristol Two Time Brewery and Taproom, LLC

(u)KDH Ventures, LLC

(u)New Sarum Brewing Co. LLC

(u)SouthState Bank, National Association

(u)Starr Hill Brewery, LLC

(d)District 9 Brewing Company  
 9815 Sam Furr  
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(d)Fuze Integrated, LLC  
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(d)Globaltranz Enterprises, LLC  
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(u)John Ashcraft

(u)Margaret Van de Ree

End of Label Matrix  
Mailable recipients 185  
Bypassed recipients 23  
Total 208